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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/110,103	07/01/1998	MICHAEL C. POWERS	019143.0272	4295

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TERRY J STALFORD
BAKER & BOTTS
2001 ROSS AVENUE
DALLAS, TX 752012980

EXAMINER

IRSHADULLAH, M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/110,103

Applicant(s)

POWERS ET AL.

Examiner

M. Irshadullah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. This communication is in response to the Appeal Brief filed May 07, 2003.
2. In view of the appeal brief filed on May 07, 2003, PROSECUTION IS HEREBY REOPENED. New Office Action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Summary Of Instant Office Action

3. Applicant's submissions regarding claims 1-17 rejected under U.S.C. 103, Paper No. 21, Office Action mailed October 16, 2002 have been considered and a new Office Action is set out below.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claim 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Jnovski et al (US Patent 5,726,914).

Jnovski et al disclose:

Claim 1. A computer-implementable method for importing external productivity data into a performance evaluation system, comprising:

a) storing a plurality of user-defined data elements for an evaluation process (Col. 4, lines 2-11, 26-28 recited with col. 1, lines 9-10 and Table1 (Backlog, Daily, 110 out-standing calls, 50%, 85%, 95% of goal etc.), wherein "The prompts requesting the user to supply configuration data (cited data entries of Table 1), inferring "data items are defined by the user (user-defined data)";

b) storing a user-defined configuration table for a data file comprising external productivity data associated with a telephony switch, the configuration table operable to identify external productivity data items in the data file and to map external productivity

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data items to data elements for the evaluation process (Table 1, Col. 4, lines 23-24 read with lines 2-7, col. 9, lines 26-40 and col. 1, lines 38-42, wherein as discussed above “defining data items of Table 1 by the user” is indeed “defining the configuration Table 1 itself”, since the table becomes useable after user enters (or defines) said data items in it (See col. 4, lines 26-49), and in database jargon, data are stored in some format including “file” format; recitation of col. 9, 32-36: calls made by the customer and returned to the customer” infer “productivity data” of people and/or machines functioning in customer service (col. 9, line 28) and lines 37-40: “data collector 122 could be coupled to another computer system (specifically to ‘a distributed system’)” inferring Janovski et al’s system’s capability to communicate (sending and retrieving or importing) data (or external data) with outside devices. Moreover, cited “organization- col. 1, lines 38-42” being generic, encompasses “telephony switch”; cited “circuit 120 executing backlog algorithm- col. 9, lines 29-30” is “identifying” above discussed external productivity data items (See col. 4, lines 26-28). Furthermore, “storing” above discussed external data into table data base 116, Fig. 2, inferring “mapping” said external data for “performance analysis or evaluation”, as per cited col. 1, lines 9-10);

c) mapping external productivity data items from the data file to the data elements based on the configuration table (Col. 4, line 7, col. 9, lines 32-40, wherein “storing” inferring “mapping” as discussed above, “calls made to and returned by” customer service inferring “productivity data” and “122 could be coupled to another computer, specifically to ‘a distributed system’ inferring Janovski et al system’s capability to communicate (sending, retrieving or importing) data, such as prior cited

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“calls made to and returned by” customer service, from outside devices; i.e., system is capable of sending, retrieving or importing “external productivity data”. Moreover, data items (or elements) in a data base, for instance table database 116, are stored in “table or file” structure or format and the storing is performed using configuration table schema, col. 4, lines 23-24); and

d) inserting the external productivity data items into a plurality of productivity tables based on the mapping of the external productivity data items to the data elements, the external productivity data items inserted into the productivity tables capable of being used to calculate productivity scores for the evaluation process (Fig. 2, described col. 3, lines 55-62, and col. 1, lines 9-10, wherein “gathering and storing” performance data (or external productivity data as discussed above) into configuration table (col. 3, lines 61-62) inferring “inserting”, said storing (or inserting) is performed in accordance with (based on) mapping discussed in the previous and the stored (or inserted) data is used for “performance analysis or evaluation process-col. 1, lines 9-10” producing percentages (productivity scores), col. 7, lines 26-28 and Figs. 8-11).

Claim 2. The method of Claim 1, the configuration table further operable to associate a data item with a member of the performance evaluation system (Col. 4, lines 26-28, wherein Table 1 is a “configuration table” and depicts requisite correspondence (or association) of various data items (24 hour 100%) with member (backlog), col. 5, lines 25-28).

Claim 3. The method of Claim 1, wherein the data file is a delimited file (Table 1, wherein spaces between data items or elements are delimiters; i.e., Table 1 shows "delimited file").

Claim 4. The method of Claim 1, wherein the data file is not a delimited file and further comprising:

a) storing a preprocessor file operable to generate a delimited file from the data file (Col. 4, lines 23-24 and 26-29, wherein cited Table 1 comprising algorithm, such as "Backlog-col. 9, line 19", is a "processor file") and when executed produces a delimited table (or file), col. 6, lines 19-24 read with lines 28-29 and col. 3, lines 32-34); and

b) using the preprocessor file to generate the delimited file from the data file (See discussion in a) above).

Claim 5. The method of Claim 1, further comprising the configuration table operable to identify a type for each of the data items (Col. 4, lines 42-49, wherein "identifying algorithm" and "categorizing" gathered customer data inferring the claimed feature).

Claim 6. The method of Claim 1, further comprising the configuration table operable to identify a format for each of the data items (Col. 4, lines 42-49, wherein "converting" and categorizing" customer data infer "identifying the format of data

elements (or items)" so that said data element is converted and then placed into requisite category).

Claim 7. A computer- implementable performance evaluation system, comprising:

a) a first database table operable to store a plurality of user-defined data elements for an evaluation process (Col. 4, lines 23-24 and Fig. 2 (116) and see the discussion of claim 1a) above);

b) a second database table operable to store configuration information for importing a data file comprising external productivity data associated with a telephony switch into the performance evaluation system, the configuration information operable to identify external productivity data items in the data file and to map external productivity data items to data elements for the evaluation process (Fig. 2 (113), col. 3, lines 55-58, wherein "library 113" is another or "second database table" and see the discussion of claim 1b) above).

c) a third database table operable to store productivity data, at least a portion of the productivity data comprising external productivity data items inserted into the third database table based on the mapping of the external productivity data items to the data elements, the productivity data capable of being used to calculate productivity scores for the evaluation process (Col. 6, lines 43-51, wherein "storing callback status in a callback metric" infers the provision of one more storing table (or third database table) and see the discussion of claim d) above);

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Claim 8. The performance evaluation system of Claim 7, further comprising a configuration including the configuration information and an identifier for associating a data item to a member of the performance evaluation system (See the discussion of claim 2 above).

Claim 9. The method of Claim 1, further comprising receiving the data file from an external device (Col. 9, lines 36-40, wherein "122 coupled to another computer, specifically 'a distributed system'" inferring Janovski et al system's capability of communicating (sending, retrieving, importing or receiving), data (or datafile) from outside external) machines (or devices)),

Claim 10. The method of Claim 9, wherein the external device comprises a telephony switch (Col. 9, lines 36-40, wherein "122 coupled to another computer", wherein cited "another computer" encompasses a device having the configuration and capability of or coupled to a computer including "telephony switch" with said qualification).

Claim 11. The system of Claim 7, wherein the data file is a delimited file (See discussion of claim 3 above).

Claim 12. The system of Claim 7, wherein the data file is not a delimited file and further comprising a preprocessor file operable to generate a delimited file from the data file (See discussion of claim 4b) above).

Claim 13. The system of Claim 7, the configuration information further operable to identify a type for each of the data items (See discussion of claim 5 above).

Claim 14. The system of Claim 7, the configuration information further operable to identify a format for each of the data items (See discussion of claim 6 above).

Claim 15. The system of Claim 7, wherein the data file is operable to be received from an external device (See discussion of claim 9 above).

Claim 16. The system of Claim 15, wherein the external device comprises a telephony switch (See discussion of claim 10 above).

Claim 17. (Amended) A computer-implementable method for importing external productivity data into a performance evaluation system, comprising:

a) storing a plurality of user-defined data elements for an evaluation process (See discussion of claim 1a) above);

b) storing a user-defined configuration table for a data file comprising external productivity data associated with a telephony switch, the configuration table operable to identify external productivity data items in the data file, to map external productivity data items to data elements for the evaluation process, to associate a data item with a

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member of the performance evaluation system, to identify a type for each of the data items, and to identify a format for each of the data items (See discussions of claims 1b, 2, 5 and 6 above);

c) receiving the data file from an external device, the external device comprising a telephony switch (See discussion of claims 9 and 10 above);

d) mapping external productivity data items from the data file to the data elements based on the configuration table (See discussion of claim 1c) above); and

e) inserting the external productivity data items into a plurality of productivity tables based on the mapping of the external productivity data items to the data elements, the external productivity data items inserted into the productivity tables capable of being used to calculate productivity scores for the evaluation process (See discussion of claim 1d) above).

Response to Arguments

7. Applicant's arguments filed May 07, 2003 have been fully considered and a new Office Action is set out above.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Irshadullah whose telephone number is (703) 308-6683. The examiner can normally be reached on M-F from 11:00 am to 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (703) 305-9643. The fax numbers for the organization are (703) 872-9326 for Non-Final and for Final (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-3900.


M. Irshadullah

July 23, 2003


Romain Janty
Art Unit 3623